

**REMARKS UNDER 37 CFR § 1.111**

**Formal Matters**

Claims 1-6, 8-15, 17-20 and 22-31 are pending after entry of the amendments set forth herein.

Claims 1-6, 8-15 and 17-30 were examined. Claims 8-10, 21 and 22 were rejected. Claims 1-6, 11-15, 17-20 and 23-27 were allowed.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

**The Office Action**

In the Official Action of April 6, 2004, the Examiner rejected claims 8-10, 21 and 22 under 35 U.S.C. Section 103(a) as being unpatentable over Hancock (U.S. Patent No. 6,331,157) in view of Brief (U.S. Patent No. 4,747,395). The Examiner asserted that it would have been obvious to have provided the arms 24 of Hancock to have comprised a polymeric material because of its known chemical inertness, compatibility with cell metabolism and ability to withstand repeated sterilizations.

Although Applicants do not agree that Brief is properly combinable with Hancock, since Brief is directed to a soft tissue retractor (see col. 1, lines 4-7) and not a sternal retractor, such as disclosed by Hancock, Applicants have nevertheless amended claims 8 and 9 above in an effort to advance the prosecution of the instant application. Claim 8 has been amended to further recite that the body comprises an engineering polymer. Support for this amendment can be found at page 22, lines 22-23 of the specification. As is well known in the art, engineering polymer are materials with exceptional mechanical properties such as stiffness, toughness, and low creep that make them valuable in the manufacture of structural products such as gears, bearings, electronics devices and auto parts, for example. Brief teaches the provision of retractor members made of elastomer covered metals. Brief would not use an engineering polymer for accomplishing the coating, and this is evidenced by the disclosure of an elastomer covering. Thus, even if the combination of Hancock and Brief suggested by the Examiner were to be made, this would result in the provision of a metal arm coated with an elastomer. It is respectfully submitted that claim 8 patentably defines over this combination.

Claim 9 has been amended to further recite that the retractor blade is detachable from the drive mechanism, even when the retractor blade is applying force to the incision. Neither Hancock nor Brief

teach or suggest such a feature.

Claim 21 has been canceled. It is respectfully submitted that claim 22 is allowable at least for the same reasons presented with regard to claim 9, since claim 22 depends from claim 9.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 8-10 and 22 (claim 21 having been canceled) under 35 U.S.C. Section 103(a) as being unpatentable over Hancock (U.S. Patent No. 6,331,157) in view of Brief (U.S. Patent No. 4,747,395), as being no longer appropriate.

It is further submitted that newly submitted claims 28-31 are also allowable over the art of record. Independent claim 28 recites a detachable surgical retractor blade for attaching to a drive mechanism, said retractor blade comprising a body having a first end, a second end, and a channel adapted to engage one side of an incision in a patient, wherein said retractor blade is detachable from the drive mechanism even when said retractor blade is applying force through said channel to one side of the incision.. Claim 29 depends from claim 28, and further recites that the body comprises a polymer.

Independent claim 30 recites a sternal retractor blade comprising a body having a first end adapted to attach to a separate, sternal retractor driving mechanism, a second end, and a channel adapted to engage one side of an incision in a patient, wherein the body comprises engineering polymer. Claim 31 depends from claim 30 and further recites that the body includes at least one opening for receiving a reinforcing member to strengthen the body under loads incurred during sternal retraction.

### **Conclusion**

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-012CON.

Respectfully submitted,

LAW OFFICE OF ALAN W. CANNON

Date: \_\_\_\_\_

July 2, 2004

By: \_\_\_\_\_



Alan W. Cannon

Registration No. 34,977

LAW OFFICE OF ALAN W. CANNON  
834 South Wolfe Road  
Sunnyvale, CA 94086  
Telephone: (408) 736-3554  
Facsimile: (408) 736-3564